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09/394,228	09/13/1999	GLENN PETKOVSEK	P-99-012	3917

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 12

Application Number: 09/394,228
Filing Date: 9/13/99
Appellant(s): Glenn Petkovsek

Brian M. Mattson
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed January 15, 2002.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1, and 9 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

Appellant's brief includes a statement that claims 1 and 7 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,664,725	Walz	9/1997
5,697,648	Petkovsek	12/1997

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4, 7-9, 11, 12 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office action, Paper No. 7.

(11) Response to Argument

Appellant's arguments filed January 15, 2002 have been fully considered but they are not persuasive.

Appellant states that the Walz reference does not teach a postcard integrally formed with a designator section indicative of a special service. In response to that argument, the examiner submits that Walz does indeed disclose a postcard (70) integrally formed with a designator section (73), wherein the designator section is indicative of a special service (Col. 6, lines 10-17). Since appellant has not defined what "special service" entails in claims 1 and 9, the examiner has interpreted "special service" in its broadest sense. A broad definition of a "special service" is indicated in Appellant's arguments (Page 14, lines 1-4) as well. Further, the designator section is contained within the exterior sides (sides to the left of perforated line (24) and to the right of perforated line (26)). In response to Appellant's arguments that the Walz reference does not teach a label that includes printing and shading, wherein the printing and shading are a single color, the examiner submits that Walz does indeed disclose a label that is shaded in a single color (Col. 4, lines 5-11) and printed in a

single color (black ink is generally used for printing). The examiner has interpreted this to mean that the "shading" is in one single color and the "printing" is in another single color. The examiner also submits that appellant seems confused with equating the claim limitation "the shading and printing are a single color" with the argument "to shade and print the label with a single color". The Appellant must understand that a "single color" limitation does not necessarily mean "the same color". Furthermore, matters related to the choice of ornamentation producing no mechanical effect or advantage considered to constitute the invention are considered obvious and do not impart patentability, *In re Seid* 73 USPQ 431.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Examiner

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February 8, 2002

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